

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Design Basics, LLC,

Case No. 3:15CV666

Plaintiff,

v.

Order

Forrester Wehrle Homes, Inc., *et al.*

Defendants.

Pending in this copyright infringement case are intervenor's complaints filed by Acuity Insurance Company, and Cincinnati Insurance Company—the entities who insured the Forrester Wehrle Homes defendants during the time they allegedly infringed plaintiff's copyrighted home designs. (Docs. 134, 135). Acuity and Cincinnati both seek declaratory judgments absolving them from having to indemnify defendants if a jury finds defendants liable for intentional infringement.

Both also filed their complaints in contravention to my previous order.

When Acuity and Cincinnati first moved to intervene in this case (*see* Docs. 119, 124), I held two status conferences to consider their requests. After the second conference, I entered an order granting their motions, but only “to the extent the proposed intervenors may submit proposed jury interrogatories.” (Non-document docket entry 5/1/2018).

Because Acuity and Cincinnati had “already” submitted “those interrogatories,” I denied the motions to intervene in all other respects, “subject to such further requests for interrogatories as the court may make.” (*Id.*).

At this point, I have made no “further requests” for interrogatories. And I have already denied intervention for any other purpose. Acuity and Cincinnati “cannot ‘shoehorn [their] potential declaratory judgment contract claim[s]’ into this copyright action.” *Design Basics, LLC v. A.J. Bokar Building Company, Inc.*, 2016 WL 6067780, * 2 (N.D. Ohio) (citation omitted); *see also ProBuilt Homes, Inc. v. Jelenic*, 2014 WL 810833, *2–3 (N.D. Ohio).

If they attempt to do so again, I may impose sanctions.

It is, therefore, ORDERED THAT, the intervenors’ complaints for declaratory judgment (Docs. 134, 135) be, and the same hereby are, dismissed with prejudice.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge